

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 7261 of 2026**

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NANBAI RATNA GORASIYA & ORS.
Versus
RAMJI RATNA GORASIYA & ORS.

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Appearance:
MR AMIT N PATEL(2749) for the Petitioner(s) No. 1,2,3,4

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CORAM:HONOURABLE MR. JUSTICE MAULIK J.SHELAT

Date : 23/06/2026

ORAL ORDER

1. Heard Mr. Amit N. Patel, learned advocate for the petitioners.

2. At the outset, Mr. Patel, learned advocate for the petitioners, under the instruction of his clients would state that pursuance to the impugned order dated 25.02.2026 passed by the Trial Court below Exhibit - 98, the respondents - defendants have submitted a copy of original Will with the Trial Court and it is in the custody of Nazir.

3. Mr. Patel, learned advocate would submit that the impugned application below Exhibit - 98 was filed by the

plaintiffs after cross-examination of the notary happens to be witness of the defendants, wherein it appears that the Will which is sought to be relied upon is not genuine as the signature of the executant of the Will is under cloud.

4. It is submitted that despite coming to the conclusion that the production of the original Will is required and the same was in fact ordered by the Trial Court while partly allowing the impugned application, the request of the petitioners - plaintiffs as regards to sending out the original Will to the aforesaid Forensic Science Laboratory (FSL) is wrongly rejected. It is further submitted that the Trial Court has not appreciated the fact that rule of procedure is a handmaid of justice and merely because plaintiffs evidence was already over/closed, it would not be a ground to reject the request of the plaintiffs. It is also submitted that as per the settled position of law, the trial of the suit is nothing but journey to find out the truth.

5. Having heard Mr. Patel, learned advocate for the petitioner at length and upon perusal of the order

impugned in this petition, prima facie, it appears that on one hand, the Trial Court has felt that the production of original Will is required and in fact, ordered so and it appears that the defendants have produced a copy of original Will with the Trial Court.

6. So far as request of the plaintiffs to send such Will to FSL for examination is rejected mainly on the ground that such request came at belated stage.

7. It is by now a well-settled position of law that rule of procedure is handmaid of justice and technicality should not override the justice. One also cannot dispute the fact that the trial of a suit is nothing but journey to find out the truth and considering the facts and circumstances of the case and especially when Trial Court also felt that production of original Will is required, the request of the petitioner – plaintiff ought to have been accepted.

8. In view of the aforesaid, the matter requires consideration. Issue notice for final disposal returnable

on 24.08.2026. Direct service through speed post is permitted.

9. It is also open for the petitioner to serve the notice and the copy of the petition upon the lawyer of the respondents – original defendants who is appearing in the suit proceeding which can be considered as a valid service of notice as per Order III, Rule 5 of Civil Procedure Code, 1908. In the meantime, ad interim relief in terms of Paragraph – 23(c) is granted. It is open for the parties to request for early hearing of this petition.

SHAHANAZ

(MAULIK J.SHELAT,J)